

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs

Case No; 04-80562
Honorable Victoria A. Roberts

FABIANO CANEVA, ET AL,

Defendants.

ORDER

Defendant Fabiano Cesilla filed three motions in this case:

1. Motion for Discovery Production of Documents the Government Intends to Rely Upon at Sentencing (Doc. #135).
2. Motion for Discovery for Preparation for Sentencing/Hearing (Doc. #130);
3. Motion for Order Requesting Writ/Subpoena to be Issued for the Appearance of Co-Defendant Hugo DeSouza (Doc. #131); and

The Court held a telephone conference on the record on February 9, 2006. Attending were John Freeman for the Government; Peter Kelley for Defendant Cesilla; Kenneth Karam for Defendant Caneva; and Mark Magidson for Defendant Domingues. Based on the discussion held, the Court orders the following:

1. Motion for Discovery Production of Documents the Government Intends to Rely Upon at Sentencing is **GRANTED**. The Government has already given the Defendants the opportunity to review and copy pertinent provisions of daily planners prepared by Mr. Caneva. Further, Mr. Freeman has represented that he will call the

following witnesses at Mr. Cesilla's sentencing, and that he will provide all defense counsel with the statements these witnesses will rely upon (if they have not already been supplied) in their testimony:

- A. Agent Adduci, but his testimony will not rely upon notes that he took of meetings with Mr. Faria, or any statements of Mr. Faria, concerning the number of aliens smuggled or Mr. Cesilla's use of a special skill.
Nonetheless, the Government is to provide counsel with the notes from agent meetings with Mr. Faria.
- B. Kathy Wolling, Postal Inspector, whose testimony will rely upon post arrest statements made by Mr. Cesilla in New Jersey.
- C. Corporal Christopher Mertoian may testify concerning statements Mr. Cesilla made when he was observed manufacturing documents at Kinkos. Mr. Freeman represents that this testimony is only relevant as to Defendant Cesilla.
- D. Sgt. Lockhart, a fact witness, who did not produce a written report, will testify concerning events that transpired at Kinko's and after, at the police station.

2. Motion for Discovery for Preparation for Sentencing/Hearing is **GRANTED**.

The Government is to produce complete copies of Mr. Caneva's day planners to the Defendants, as well as all alleged counterfeit documents that it intends to introduce at the sentencing hearing. Such production shall be made in advance of the hearing. The Government is to fully comply with FRE 1006 and shall provide any summary reports it will introduce into evidence in advance of the sentencing.

3. Request for a Writ /Subpoena to Be Issued for the Appearance of Co-Dendant
Hugo DeSouza is **MOOT**.

IT IS SO ORDERED.

/s/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: February 10, 2006

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on February 10, 2006.

s/Linda Vertriest
Deputy Clerk